

MEMO ENCL.

PAUL W. MEYER, JR.

Attorney at Law
Admitted in New York and Florida

April 10, 2023

Via ECF

Honorable Judge Kenneth M. Karas
The Hon. Charles L. Brieant, Jr.
Federal Building and United States Courthouse
300 Quarropas Street
White Plains, NY 10601

Re: Santander Consumer USA, Inc. v. the City of Yonkers, *et al.*
Docket No. 7:20-cv-4553 (KMK)(PED)

Dear Honorable Sir:

Be advised that I am the attorney for the Defendants, APOW Towing and Harold Wuestenhoefer, relative to the above-referenced action. This correspondence is in response to same from Campanelli & Associates, P.C., this date.

It is Defendants' contention that counsel's commentary within the aforesaid correspondence is disingenuous at best. The issue as to the filing of appeals relative to the matter is not controlling as to the pending motion for damages and attorneys fees. The City of Yonkers filed an appeal relative to its requirement to pay legal fees to the Plaintiff. The Notice of Appeal filed on behalf of my clients was determined to be premature under the Court Rules and Statutes in that there was no final determination against said Defendants at said time. As such, the appeal was not pursued.

I have been previously informed by Plaintiff and the City of Yonkers that the parties were solely endeavoring to provide for a modification of the City of Yonkers statute as required by the Toyota decision and nothing further was "negotiated" between the parties. The statement that the CAMP Mediation was solely had between Plaintiff and the City of Yonkers is irrelevant to the determination of the pending motion.

The Proposed Scheduling Order [Doc. #168] references that all parties agreed to the Scheduling Order and all parties consented to the motion schedule. This office was not part of any negotiations relative to the correction of the City of Yonkers statute. Furthermore, this office was not consulted as to the Intervenor's motion schedule. It is my understanding that said motion was held in abeyance pending the aforesaid negotiations between Plaintiff and the City of Yonkers. Said understanding is supported by the fact that the Intervenor's application was filed more than five (5) months ago.

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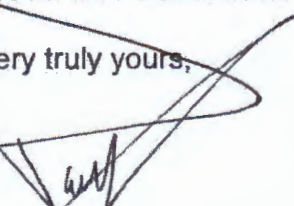
(Fax and Email Not For Service Purposes)

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That the parties have, except for this office's clients, seen fit to now schedule the Intervenor's motion. The preclusion of the APOW Defendants as to same is without merit and is unjustified.

It is this office's intent to cross-move against the City of Yonkers pursuant to the Cross-Claim filed by it in the action, and should be permitted to oppose the motion filed by the intervenor. As such, it is requested that the Court extend the deadlines set forth in the City of Yonkers' letter so that the APOW Defendants can also respond. That the parties have seemingly and intentionally neglected to involve this office in any of their negotiations, communications, etc. Perhaps, said "neglect"/intent was predicated on the fact that, as per the attached email, this office was informed by co-counsel for the City of Yonkers that the Intervenor's motion is not made against the APOW Defendants, and that legal fees are not being sought from the APOW Defendants. Accordingly, the request is made that the Court ignore the correspondence of the Intervenor's attorneys [Doc. #173] and extend the Scheduling Order so as to enable the APOW Defendants' participation.

Very truly yours,


Paul W. Meyer, Jr.

PWM/cd

c: All Counsel of Record (via email)



The Parties are to submit a revised briefing schedule that allows the APOW defendants an opportunity to participate in the motion practice. The schedule is due 4/14/23.

So Ordered.


4/11/23

Paul W. Meyer, Jr.

From: Dennis E. Lynch <dennislynchesq@gmail.com>
Sent: Wednesday, April 5, 2023 11:24 AM
To: Paul W. Meyer, Jr.
Cc: Alexander Ryan Sokolof, Esq.; Jessica Molinares Kalpakis; Darius Chafizadeh; mdudley@harrisbeach.com; Nicholas A. Duston, Esq.; Howie Wuestenhoefer
Subject: Re: FW: Activity in Case 7:20-cv-04553-KMK-PED Santander Consumer USA, Inc. v. The City of Yonkers et al Proposed Scheduling Order

Dear Paul: That Document speaks for itself. Besides, I can't give you legal advice. But, I just came back from Belfast, Northern Ireland with Bill McComish. He should have no conflict of interest in reading that Docket entry to you. Please no more frivolous requests. Best.. Dennis

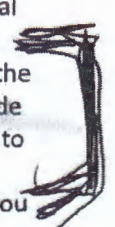
On Wed, Apr 5, 2023 at 11:17 AM Paul W. Meyer, Jr. <paul@meyerjrlaw.com> wrote:

Dennis:

If you are correct, kindly explain to me what Document No. 160 in this matter means!!

From: Dennis E. Lynch <dennislynchesq@gmail.com>
Sent: Wednesday, April 5, 2023 11:08 AM
To: Paul W. Meyer, Jr. <paul@meyerjrlaw.com>
Cc: Alexander Ryan Sokolof, Esq. <arsokolof@norris-law.com>; Jessica Molinares Kalpakis <JMolinares@harrisbeach.com>; Darius Chafizadeh <DChafizadeh@harrisbeach.com>; mdudley@harrisbeach.com; Nicholas A. Duston, Esq. <naduston@norris-law.com>; Howie Wuestenhoefer <howieapowtow@yahoo.com>
Subject: Re: FW: Activity in Case 7:20-cv-04553-KMK-PED Santander Consumer USA, Inc. v. The City of Yonkers et al Proposed Scheduling Order

Dear Paul: The Consent to Change was filed in the Federal Court Docket some time ago. You are noted on the Federal Court Docket to receive copies of all filings electronically. If you would like to receive a courtesy copy, one can be provided to you. As for your consent to the Attorneys Fee application, your Client was not awarded attorneys fees, the Intervenor was alone, and only the City of Yonkers is being required to pay any attorneys fees in the application made by the Intervenor's Attorney. Thus, your consent is neither required nor appropriate. If, however, your client wishes to contribute to any award of attorneys fees, please let me know and I will advise the Intervenor's Attorney of the same. So, if your client wishes to contribute toward any Attorneys fee award, please advise and advise what dates you want to submit your papers in that regard. I am certain that you can be accommodated in that regard. All the best, Dennis Lynch, Esq



On Wed, Apr 5, 2023 at 10:52 AM Paul W. Meyer, Jr. <paul@meyerjrlaw.com> wrote:

Kindly advise as to when I shall be receiving a change of attorney form from Harris Beach as to its taking over the representation of my clients in this matter???

Where was my consent to the submission of the letter to the Court!!!!!!!!!!!!!!

From: [NYSD ECF Pool@nysd.uscourts.gov](mailto:NYSD_ECF_Pool@nysd.uscourts.gov) <[NYSD ECF Pool@nysd.uscourts.gov](mailto:NYSD_ECF_Pool@nysd.uscourts.gov)>

Sent: Wednesday, April 5, 2023 9:29 AM

To: CourtMail@nysd.uscourts.gov

Subject: Activity in Case 7:20-cv-04553-KMK-PED Santander Consumer USA, Inc. v. The City of Yonkers et al Proposed Scheduling Order

This is an automatic e-mail message generated by the CM/ECF system. Please **DO NOT RESPOND** to this e-mail because the mail box is unattended.

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U.S. District Court

Southern District of New York

Notice of Electronic Filing

The following transaction was entered by Molinares Kalpakis, Jessica on 4/5/2023 at 9:29 AM EDT and filed on 4/5/2023

Case Name: Santander Consumer USA, Inc. v. The City of Yonkers et al

Case Number: 7:20-cv-04553-KMK-PED

Filer: The City of Yonkers

Document Number: 168

Docket Text:

PROPOSED SCHEDULING ORDER. Document filed by The City of Yonkers..(Molinares Kalpakis, Jessica)

7:20-cv-04553-KMK-PED Notice has been electronically mailed to:

Alexander Ryan Sokolof arsokolof@norris-law.com

Andrew J. Campanelli ecf@campanellipc.com

Darius Patrick Chafizadeh dchafizadeh@harrisbeach.com, EFilings@harrisbeach.com